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EXHIBIT D**

90th General Assembly

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MAHAR-FARLEY-CARROLL.

(NOVAK-PERSICO)

220 ILCS 5/8-302

from Ch. 111 2/3, par. 8-302

Amends the Public Utilities Act. Adds a Section caption and makes stylistic changes to a Section concerning the reading of meters. Effective immediately.

HOUSE AMENDMENT NO. 1.

Deletes reference to:

220 ILCS 5/8-302

Adds reference to:

New Acts

220 ILCS 5/Art. XVI heading new

220 ILCS 5/16-101 new

220 ILCS 5/16-101A new

220 ILCS 5/16-102 new

220 ILCS 5/16-103 new

220 ILCS 5/16-104 new

220 ILCS 5/16-105 new

220 ILCS 5/16-106 new

220 ILCS 5/16-107 new

220 ILCS 5/16-108 new

220 ILCS 5/16-109 new

220 ILCS 5/16-110 new

220 ILCS 5/16-111 new

220 ILCS 5/16-112 new

220 ILCS 5/16-113 new

220 ILCS 5/16-114 new

220 ILCS 5/16-115 new

220 ILCS 5/16-115A new

220 ILCS 5/16-115B new

220 ILCS 5/16-116 new

220 ILCS 5/16-117 new

220 ILCS 5/16-118 new

220 ILCS 5/16-119 new

220 ILCS 5/16-119A new

220 ILCS 5/16-120 new

220 ILCS 5/16-121 new

220 ILCS 5/16-122 new

220 ILCS 5/16-123 new

220 ILCS 5/16-124 new

220 ILCS 5/16-125 new

220 ILCS 5/16-125A new

220 ILCS 5/16-126 new

220 ILCS 5/16-127 new

220 ILCS 5/16-128 new

220 ILCS 5/16-129 new

220 ILCS 5/16-130 new

220 ILCS 5/Art. XVII heading new	
220 ILCS 5/17-100 new	
220 ILCS 5/17-200 new	
220 ILCS 5/17-300 new	
220 ILCS 5/17-400 new	
220 ILCS 5/17-500 new	
220 ILCS 5/17-600 new	
220 ILCS 5/17-700 new	
220 ILCS 5/Art. XVIII heading new	
220 ILCS 5/18-101 new	
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220 ILCS 5/18-107 new	
220 ILCS 5/18-108 new	
220 ILCS 5/18-109 new	
220 ILCS 5/18-110 new	
225 ILCS 5/18-111 new	
220 ILCS 5/1-102	from Ch. 111 2/3, par. 1-102
220 ILCS 5/3-105	from Ch. 111 2/3, par. 3-105
220 ILCS 5/4-404 new	
220 ILCS 5/5-104	from Ch. 111 2/3, par. 5-104
220 ILCS 5/6-102	from Ch. 111 2/3, par. 6-102
220 ILCS 5/7-101	from Ch. 111 2/3, par. 7-101
220 ILCS 5/7-102	from Ch. 111 2/3, par. 7-102
220 ILCS 5/7-204	from Ch. 111 2/3, par. 7-204
220 ILCS 5/7-206	from Ch. 111 2/3, par. 7-206
220 ILCS 5/8-406	from Ch. 111 2/3, par. 8-406
220 ILCS 5/8-503	from Ch. 111 2/3, par. 8-503
220 ILCS 5/8-510	from Ch. 111 2/3, par. 8-510
220 ILCS 5/9-201.5	
220 ILCS 5/9-220	from Ch. 111 2/3, par. 9-220
220 ILCS 5/9-222	from Ch. 111 2/3, par. 9-222
220 ILCS 5/9-244	from Ch. 111 2/3, par. 9-244
220 ILCS 5/10-113	from Ch. 111 2/3, par. 10-113
220 ILCS 5/8-402 rep.	
220 ILCS 5/8-402.1 rep.	
220 ILCS 5/8-404 rep.	
35 ILCS 620/1	from Ch. 120, par. 468
35 ILCS 620/1a new	
35 ILCS 620/2a.1	from Ch. 120, par. 469a.1
35 ILCS 620/2a.2	from Ch. 120, par. 469a.2
35 ILCS 620/5	from Ch. 120, par. 472
35 ILCS 620/7	from Ch. 120, par. 474
35 ILCS 620/2 rep.	
35 ILCS 620/2a.3 rep.	
35 ILCS 620/3 rep.	
35 ILCS 615/2a.1	from Ch. 120, par. 467.17a.1
220 ILCS 5/2-202	from Ch. 111 2/3, par. 2-202
15 ILCS 205/6.5 new	
735 ILCS 5/13-224	from Ch. 110, par. 13-224
815 ILCS 505/2EE new	
815 ILCS 505/2FF new	
815 ILCS 505/2GG new	
815 ILCS 505/2HH new	
815 ILCS 505/2P	from Ch. 121 1/2, par. 262P
65 ILCS 5/8-11-2	from Ch. 24, par. 8-11-2
30 ILCS 730/3	from Ch. 96 1/2, par. 8203

305 ILCS 20/5 from Ch. 111 2/3, par. 1405
 305 ILCS 20/13 new
 305 ILCS 20/14 new
 30 ILCS 105/5.449 new
 30 ILCS 105/5.450 new
 30 ILCS 105/5.451 new
 740 ILCS 10/5 from Ch. 38, par. 60-5

Replaces the title and everything after the enacting clause. Amends the Public Utilities Act. Establishes the Electric Service Customer Choice and Rate Relief Law of 1997. Provides for the deregulation of the generation and sale of electricity. Creates the Electric Utility Transitional Funding Law. Authorizes the imposition of an instrument funding charge upon retail customers. Revises certain accounting procedures with respect to electric public utilities. Authorizes alternative rate regulation mechanisms in addition to rate of return regulation. Creates the Electricity Excise Tax Law. Imposes a tax upon the privilege of using electricity. Amends the Public Utilities Revenue Act. Imposes a tax on the distribution of electricity. Amends the Gas Revenue Tax Act with respect to the tax on invested capital. Amends the Attorney General Act to create the Consumer Utilities Unit within the Office of the Attorney General. Sets forth the powers and duties of the Consumer Utilities Unit. Amends the Consumer Fraud and Deceptive Business Practice Act relating to selection of electric service providers, electric service advertising, electric service billing procedures and, electric services fraud. Amends the Illinois Municipal Code in relation to taxes on the privilege of using electricity. Creates the Electricity Infrastructure Maintenance Fee Law to govern the use of public rights-of-way in the distribution of electricity. Creates the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. Creates the Renewable Energy Resources Program and authorizes the imposition of a Renewable Energy Resources and Coal Technology Development Assistance Charge. Provides for the proceeds of the charge to be used for the Renewable Energy Resources Program and Coal Technology Development Assistance. Provides for an energy efficiency program for low-income utility customers. Effective upon becoming law, except that provisions relating to tax matters and the creation of the Electric Service Customer Choice and Rate Relief Law of 1997 take effect January 1, 1998.

97-01-22	S	FIRST READING		
97-01-22	S	REFERRED TO SENATE RULES COMMITTEE	RULES	
97-01-22	S	ASSIGNED TO COMMITTEE	ENVIR & ENE	
97-02-06	S	TO SUBCOMMITTEE		
97-02-28	S	DO PASS	009-000-000	SENV
97-02-28	S	PLACED ON CALENDAR ORDER OF 2ND READING	97-03-04	
97-03-04	S	SECOND READING		
97-03-04	S	PLACED ON CALENDAR ORDER OF 3RD READING	97-03-05	
97-03-18	S	THIRD READING - PASSED	031-025-001	
97-03-18	H	ARRIVE IN HOUSE		
97-03-18	H	PLACED CALENDAR ORDER OF FIRST READING		
97-03-18	H	HOUSE SPONSOR	NOVAK	
97-03-18	H	FIRST READING		
97-03-18	H	REFERRED TO HOUSE RULES COMMITTEE	RULES	
97-03-21	H	ASSIGNED TO COMMITTEE	ELECTRIC UTIL	
97-05-08	H	RE-REFERRED TO RULES COMM/RULE 19(A)	RULES	HRUL
97-05-13	S	ADDED AS A CHIEF CO-SPONSOR	CARROLL	
97-05-20	H		COMMITTEE,	
97-05-20	H		3RD READING AND	
97-05-20	H		PASSAGE DEADLINE	
97-05-20	H		EXTENDED - 5/31/97	

97-05-20	H	RECOMMENDS CONSIDERATION			HRUL
97-05-20	H	PLACED CAL 2ND READING-STANDARD DEBATE			
97-05-20	S	CHIEF CO-SPONSOR CHANGED TO	FARLEY		
97-05-20	H	SECOND READING-STANDARD DEBATE			
97-05-20	H	HELD CAL ORDER 2ND READING-STANDARD DBT			
97-05-29	H		AMENDMENT NO. 01-NOVAK		
97-05-29	H		AMENDMENT REFERRED TO	HRUL	
97-05-29	H		AMENDMENT NO. 01-NOVAK		
97-05-29	H		RULES REFERS TO	HEUD	
97-05-29	H	HELD CAL ORDER 2ND READING-STANDARD DBT			
97-05-30	H		AMENDMENT NO. 01-NOVAK		
97-05-30	H		BE ADOPTED	HEUD/007-003-000	
97-05-30	H	ADDED AS A JOINT SPONSOR		PERSICO	
97-05-30	H		AMENDMENT NO. 01-NOVAK		
97-05-30	H		ADOPTED		
97-05-30	H	PLCD CAL ORDER 3RD READING-STNDRD DEBATE			
97-05-30	H	THIRD READING/STANDARD DEBATE/PASS		085-012-020	
97-05-30	S	SECRETARYS DESK - CONCURRENCE		01	
97-07-02	S	REFER TO RULES/PURSUANT SEN RULE 3-9 (B)	RULES		SRUL
99-01-12	S	SESSION SINE DIE			

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AMENDMENT TO SENATE BILL 55

AMENDMENT NO. _____. Amend Senate Bill 55 by replacing the title with the following:

"AN ACT in relation to the competitive provision of utility services, amending named Acts."; and by replacing everything after the enacting clause with the following:

"ARTICLE I

Section 5. The Public Utilities Act is amended by adding Articles XVI, XVII, and XVIII as follows:

(220 ILCS 5/Art. XVI heading new)

ARTICLE XVI. ELECTRIC SERVICE CUSTOMER CHOICE AND RATE

RELIEF LAW OF 1997

(220 ILCS 5/16-101 new)

Sec. 16-101. Short title and applicability. This Article may be cited as the Electric Service Customer Choice and Rate Relief Law of 1997 and shall apply to electric utilities and alternative retail electric suppliers as defined in this Article. Except to the extent modified or supplemented by the provisions of this Article, or where the

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context clearly renders such provisions inapplicable, the other Articles of the Public Utilities Act pertaining to public utilities, public utility rates and services and the regulation thereof, are fully and equally applicable to the tariffed services electric utilities provide.

(220 ILCS 5/16-101A new)

Sec. 16-101A. Legislative findings.

(a) The citizens and businesses of the State of Illinois have been well-served by a comprehensive electrical utility system which has provided safe, reliable, and affordable service. The electrical utility system in the State of Illinois has historically been subject to State and federal regulation, aimed at assuring the citizens and businesses of the State of safe, reliable, and affordable service, while at the same time assuring the utility system of a return on its investment.

(b) Competitive forces are affecting the market for electricity as a result of recent federal regulatory and statutory changes and the activities of other states. Competition in the electric services market may create opportunities for new products and services for customers and lower costs for users of electricity. Long-standing

23 regulatory relationships need to be altered to accommodate
24 the competition that could fundamentally alter the structure
25 of the electric services market.

26 (c) With the advent of increasing competition in this
27 industry, the State has a continued interest in assuring that
28 the safety, reliability, and affordability of electrical
29 power is not sacrificed to competitive pressures, and to that
30 end, intends to implement safeguards to assure that the
31 industry continues to operate the electrical system in a
32 manner that will serve the public's interest. Under the
33 existing regulatory framework, the industry has been

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1 encouraged to undertake certain investments in its physical
2 plant and personnel to enhance its efficient operation, the
3 cost of which it has been permitted to pass on to consumers.
4 The State has an interest in providing the existing utilities
5 a reasonable opportunity to obtain a return on certain
6 investments on which they depended in undertaking those
7 commitments in the first instance while, at the same time,
8 not permitting new entrants into the industry to take
9 unreasonable advantage of the investments made by the
10 formerly regulated industry.

11 (d) A competitive wholesale and retail market must
12 benefit all Illinois citizens. The Illinois Commerce
13 Commission should act to promote the development of an
14 effectively competitive electricity market that operates
15 efficiently and is equitable to all consumers. Consumer
16 protections must be in place to ensure that all customers
17 continue to receive safe, reliable, affordable, and
18 environmentally safe electric service.

19 (e) All consumers must benefit in an equitable and
20 timely fashion from the lower costs for electricity that
21 result from retail and wholesale competition and receive
22 sufficient information to make informed choices among
23 suppliers and services. The use of renewable resources and
24 energy efficiency resources should be encouraged in
25 competitive markets.

26 (220 ILCS 5/16-102 new)

27 Sec. 16-102. Definitions. For the purposes of this
28 Article the following terms shall be defined as set forth in
29 this Section.

30 "Alternative retail electric supplier" means every
31 person, cooperative, corporation, municipal corporation,
32 company, association, joint stock company or association,
33 firm, partnership, individual, or other entity, their

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1 lessees, trustees, or receivers appointed by any court
2 whatsoever, that offers electric power or energy for sale,
3 lease or in exchange for other value received to one or more
4 retail customers, or that engages in the delivery or
5 furnishing of electric power or energy to such retail
6 customers, and shall include, without limitation, resellers,
7 aggregators and power marketers, but shall not include (i)
8 electric utilities (or any agent of the electric utility to
9 the extent the electric utility provides tariffed services to
10 retail customers through that agent), (ii) any electric
11 cooperative or municipal system as defined in Section 17-100
12 to the extent that the electric cooperative or municipal
13 system is serving retail customers within any area in which
14 it is or would be entitled to provide service under the law

15 in effect immediately prior to the effective date of this
16 amendatory Act of 1997, (iii) a public utility that is owned
17 and operated by any public institution of higher education of
18 this State, or a public utility that is owned by such public
19 institution of higher education and operated by any of its
20 lessees or operating agents, within any area in which it is
21 or would be entitled to provide service under the law in
22 effect immediately prior to the effective date of this
23 amendatory Act of 1997, (iv) any retail customer to the
24 extent that customer obtains its electric power and energy
25 from its own cogeneration or self-generation facilities or
26 (v) any entity that sells or arranges for the installation of
27 cogeneration or self-generation facilities to be owned by a
28 retail customer described in subparagraph (iv), but only to
29 the extent the entity is engaged in selling or arranging for
30 such installation.

31 "Base rates" means the rates for those tariffed services
32 that the electric utility is required to offer pursuant to
33 subsection (a) of Section 16-103 and that were identified in
34 a rate order for collection of the electric utility's base

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1 rate revenue requirement, excluding (i) separate automatic
2 rate adjustment riders then in effect, (ii) special or
3 negotiated contract rates, (iii) delivery services tariffs
4 filed pursuant to Section 16-108, (iv) real-time pricing, or
5 (v) tariffs that were in effect prior to October 1, 1996 and
6 that based charges for services on an index or average of
7 other utilities' charges, but including (vi) any subsequent
8 redesign of such rates for tariffed services that is
9 authorized by the Commission after notice and hearing.

10 "Competitive service" includes (i) any service that the
11 Commission has declared to be competitive pursuant to Section
12 16-113 of this Act, (ii) contract service, and (iii)
13 services, other than tariffed services, that are related to,
14 but not necessary for, the provision of tariffed services.

15 "Contract service" means (1) services, including the
16 provision of electric power and energy or other services,
17 that are provided by mutual agreement between an electric
18 utility and a retail customer that is located in the electric
19 utility's service area, provided that, delivery services
20 shall not be a contract service until such services are
21 declared competitive pursuant to Section 16-113; and also
22 means (2) the provision of electric power and energy by an
23 electric utility to retail customers outside the electric
24 utility's service area pursuant to Section 16-116. Provided,
25 however, contract service does not include electric utility
26 services provided pursuant to (i) contracts that retail
27 customers are required to execute as a condition of receiving
28 tariffed services, or (ii) special or negotiated rate
29 contracts for electric utility services that were entered
30 into between an electric utility and a retail customer prior
31 to the effective date of this amendatory Act of 1997 and
32 filed with the Commission.

33 "Delivery services" means those services provided by the
34 electric utility that are necessary in order for the

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1 transmission and distribution systems to function so that
2 retail customers located in the electric utility's service
3 area can receive electric power and energy from suppliers
4 other than the electric utility, and shall include, without

5 limitation, standard metering and billing services.

6 "Electric utility" means a public utility, as defined in
7 Section 3-105 of this Act, that has a franchise, license,
8 permit or right to furnish or sell electricity to retail
9 customers within a service area.

10 "Mandatory transition period" means the period from the
11 effective date of this amendatory Act of 1997 through January
12 1, 2005.

13 "Municipal system" shall have the meaning set forth in
14 Section 17-100.

15 "Real-time pricing" means charges for delivered electric
16 power and energy that vary on an hour-to-hour basis for
17 nonresidential retail customers and that vary on a periodic
18 basis during the day for residential retail customers.

19 "Retail customer" means a single entity using electric
20 power or energy at a single premises and that (A) either (i)
21 is receiving or is eligible to receive tariffed services from
22 an electric utility, or (ii) that is served by a municipal
23 system or electric cooperative within any area in which the
24 municipal system or electric cooperative is or would be
25 entitled to provide service under the law in effect
26 immediately prior to the effective date of this amendatory
27 Act of 1997, or (B) an entity which on the effective date of
28 this Act was receiving electric service from a public utility
29 and (i) was engaged in the practice of resale and
30 redistribution of such electricity within a building prior to
31 January 2, 1957, or (ii) was providing lighting services to
32 tenants in a multi-occupancy building, but only to the extent
33 such resale, redistribution or lighting service is authorized
34 by the electric utility's tariffs that were on file with the

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1 Commission on the effective date of this Act.

2 "Service area" means (i) the geographic area within which
3 an electric utility was lawfully entitled to provide electric
4 power and energy to retail customers as of the effective date
5 of this amendatory Act of 1997, and includes (ii) the
6 location of any retail customer to which the electric utility
7 was lawfully providing electric utility services on such
8 effective date.

9 "Small commercial retail customer" means those
10 nonresidential retail customers of an electric utility
11 consuming 15,000 kilowatt-hours or less of electricity
12 annually in its service area.

13 "Tariffed service" means services provided to retail
14 customers by an electric utility as defined by its rates on
15 file with the Commission pursuant to the provisions of
16 Article IX of this Act, but shall not include competitive
17 services.

18 "Transition charge" means a charge expressed in cents per
19 kilowatt-hour that is calculated for a customer or class of
20 customers as follows for each year in which an electric
21 utility is entitled to recover transition charges as provided
22 in Section 16-108:

23 (1) the amount of revenue that an electric utility
24 would receive from the retail customer or customers if it
25 were serving such customers' electric power and energy
26 requirements as a tariffed service based on (A) all of
27 the customers' actual usage during the 3 years
28 immediately preceding the date on which such customers
29 were first eligible for delivery services pursuant to

Section 16-104, and (B) on (i) the base rates in effect on October 1, 1996 (adjusted for the reductions required by subsection (b) of Section 16-111, for any restatement of base rates made in conjunction with an elimination of the fuel adjustment clause pursuant to subsection (b),

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(d), or (f) of Section 9-220 and for any removal of decommissioning costs from base rates pursuant to Section 16-114) and any separate automatic rate adjustment riders (other than a decommissioning rate as defined in Section 16-114) under which the customers were receiving or, had they been customers, would have received electric power and energy from the electric utility during the year immediately preceding the date on which such customers were first eligible for delivery service pursuant to Section 16-104, or (ii) to the extent applicable, any contract rates, including contracts or rates for consolidated or aggregated billing, under which such customers were receiving electric power and energy from the electric utility during such year;

(2) less the amount of revenue, other than revenue from transition charges and decommissioning rates, that the electric utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated and on the usage identified in paragraph (1);

(3) less the market value for the electric power and energy that the electric utility would have used to supply all of such customers' electric power and energy requirements, as a tariffed service, based on the usage identified in paragraph (1), with such market value determined in accordance with Section 16-112 of this Act;

(4) less the following amount which represents the amount to be attributed to new revenue sources and cost reductions by the electric utility through the end of the period for which transition costs are recovered pursuant to Section 16-108:

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(A) for nonresidential retail customers, 0.5 cents per kilowatt-hour from October 1, 1999 through December 31, 2003, 0.6 cents per kilowatt-hour in calendar year 2004, 0.7 cents per kilowatt-hour in calendar year 2005, and 1.0 cents per kilowatt-hour in calendar years 2006, 2007, and 2008, multiplied in each year by the usage identified in paragraph (1); and

(B) for residential retail customers, an amount equal to the following percentages of the amount produced by applying the base rates in effect on October 1, 1996 (adjusted as described in subparagraph (1)(B)) to the usage identified in paragraph (1): (i) 6% from October 1, 2000 through December 31, 2002, (ii) 7% in calendar years 2003 and 2004, (iii) 8% in calendar years 2005 and 2006, and (iv) 10% in calendar years 2007 and 2008;

(5) divided by the usage of such customers identified in paragraph (1),

provided that the transition charge shall never be less than zero.

"Unbundled service" means a component or constituent part of a tariffed service which the electric utility subsequently offers separately to its customers.

(220 ILCS 5/16-103 new)

Sec. 16-103. Service obligations of electric utilities.

(a) An electric utility shall continue offering to retail customers each tariffed service that it offered as a distinct and identifiable service on the effective date of this amendatory Act of 1997 until the service is (i) declared competitive pursuant to Section 16-113, or (ii) abandoned pursuant to Section 8-508. Nothing in this subsection shall be construed as limiting an electric

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utility's right to propose, or the Commission's power to approve, allow or order modifications in the rates, terms and conditions for such services pursuant to Article IX or Section 16-111 of this Act.

(b) An electric utility shall also offer, as tariffed services, delivery services in accordance with this Article, the power purchase options described in Section 16-110 and real-time pricing as provided in Section 16-107.

(c) Notwithstanding any other provision of this Article, each electric utility shall continue offering to all residential customers and to all small commercial retail customers in its service area, as a tariffed service, bundled electric power and energy delivered to the customer's premises consistent with the bundled utility service provided by the electric utility on the effective date of this amendatory Act of 1997. Upon declaration of the provision of electric power and energy as competitive, the electric utility shall continue to offer to such customers, as a tariffed service, bundled service options at rates which reflect recovery of all cost components for providing the service. For those components of the service which have been declared competitive, cost shall be the market based prices. Market based prices as referred to herein shall mean, for electric power and energy, either (i) those prices for electric power and energy determined as provided in Section 16-112, or (ii) the electric utility's cost of obtaining the electric power and energy at wholesale through a competitive bidding or other arms-length acquisition process.

(d) Any residential or small commercial retail customer which elects delivery services is entitled to return to the electric utility's bundled utility tariffed service offering provided in accordance with subsection (c) of this Section upon payment of a reasonable administrative fee which shall be set forth in the tariff, provided, however, that the

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electric utility shall be entitled to impose the condition that such customer may not elect delivery services for up to 24 months thereafter.

(e) The Commission shall not require an electric utility to offer any tariffed service other than the services required by this Section, and shall not require an electric utility to offer any competitive service.

(220 ILCS 5/16-104 new)

Sec. 16-104. Delivery services transition plan. An electric utility shall provide delivery services to retail

customers in accordance with the provisions of this Section.

(a) Each electric utility shall offer delivery services to retail customers located in its service area in accordance with the following provisions:

(1) On or before October 1, 1999, the electric utility shall offer delivery services (i) to any non-residential retail customer whose average monthly maximum electrical demand on the electric utility's system during the 6 months with the customer's highest monthly maximum demands in the 12 months ending June 30, 1999 equals or exceeds 4 megawatts; (ii) to any non-governmental, non-residential, commercial retail customers under common ownership doing business at 10 or more separate locations within the electric utility's service area, if the aggregate coincident average monthly maximum electrical demand of all such locations during the 6 months with the customer's highest monthly maximum electrical demands during the 12 months ending June 30, 1999 equals or exceeds 9.5 megawatts, provided, however, that an electric utility's obligation to offer delivery services under this clause (ii) shall not exceed 3.5% of the maximum electric demand on the electric utility's system in the 12 months ending June 30, 1999; and (iii)

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to non-residential retail customers whose annual electric energy use comprises 33% of the kilowatt-hour sales, excluding the kilowatt-hour sales to customers described in clauses (i) and (ii), to each non-residential retail customer class of the electric utility.

(2) On or before October 1, 2000, the electric utility shall offer delivery services (i) to the eligible governmental customers described in subsections (a) and (b) of Section 16-125A if the aggregate coincident average monthly maximum electrical demand of such customers during the 6 months with the customers' highest monthly maximum electrical demands during the 12 months ending June 30, 2000 equals or exceeds 9.5 megawatts; and (ii) to a group of residential retail customers whose annual electric energy use comprises 10% of the kilowatt-hour sales to each residential retail customer class of the electric utility.

(3) On or before December 31, 2000, the electric utility shall offer delivery services to all remaining nonresidential retail customers in its service area.

(4) On or before October 1, 2001, the electric utility shall offer delivery services to a group of residential retail customers whose annual electric energy use comprises an additional 30% of the kilowatt-hour sales to each residential retail customer class of the electric utility.

(5) On or before October 1, 2002, the electric utility shall offer delivery services to all remaining residential retail customers in its service area.

The loads and kilowatt-hour sales used for purposes of this subsection shall be those for the 12 months ending June 30, 1999 for nonresidential retail customers and ending June 30, 2000 for residential retail customers. The electric utility shall identify those customers to be offered delivery

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service pursuant to clauses (1)(iii) and (2)(ii) and

subparagraph (4) pursuant to a lottery or other random non-discriminatory selection process set forth in the electric utility's delivery services implementation plan pursuant to Section 16-105. Provided, that non-residential retail customers under common ownership at separate locations within the electric utility's service area may elect, prior to the date the electric utility conducts the lottery or other random selection process for purposes of clause (1)(iii), to designate themselves as a common ownership group, to be excluded from such lottery and to instead participate in a separate lottery for such common ownership group pursuant to which delivery services will be offered to non-residential retail customers comprising 33% of the total kilowatt-hour sales to the common ownership group on or before October 1, 1999. For purposes of this subsection (a), an electric utility may define "common ownership" to exclude sites which are not part of the same business, provided, that auxiliary establishments as defined in the Standard Industrial Classification Manual published by the United States Office of Management and Budget shall not be excluded.

(b) Aggregation of loads shall be allowed so long as such aggregation meets the criteria for delivery of electric power and energy applicable to the electric utility established by the regional reliability council to which the electric utility belongs, by an independent system operating organization to which the electric utility belongs, or by another organization responsible for overseeing the integrity and reliability of the transmission system, as such criteria are in effect from time to time. The Commission may adopt rules and regulations governing the criteria for aggregation of the loads utilizing delivery services, but its failure to do so shall not preclude any eligible customer from electing delivery services. Such aggregation may include any

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voluntary grouping of customers having a common agent with contractual authority to purchase electric power and energy and delivery services on behalf of all customers in the grouping.

(c) An electric utility shall allow a retail customer that generates power for its own use to include the electrical demand obtained from the customer's cogeneration or self-generation facilities that is coincident with the retail customer's maximum monthly electrical demand on the electric utility's system in any determination of the customer's maximum monthly electrical demand for purposes of determining when such retail customer shall be offered delivery services pursuant to clause (i) of subparagraph (1) of subsection (a) of this Section.

(d) The Commission shall establish charges, terms and conditions for delivery services in accordance with Section 16-108.

(e) Subject to the terms and conditions which the electric utility is entitled to impose in accordance with Section 16-108, a retail customer that is eligible to elect delivery services pursuant to subsection (a) may place all or a portion of its electric power and energy requirements on delivery services.

(f) An electric utility may require a retail customer who elects to (i) use an alternative retail electric supplier or another electric utility for some but not all of its

27 electric power or energy requirements, and (ii) use the
28 electric utility for any portion of its remaining electric
29 power and energy requirements, to place the portion of the
30 customer's electric power or energy requirement that is to be
31 served by the electric utility on a tariff containing charges
32 that are set to recover the lowest reasonably available cost
33 to the electric utility of acquiring electric power and
34 energy on the wholesale electric market to serve such

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1 remaining portion of the customer's electric power and energy
2 requirement, reasonable compensation for arranging for and
3 providing such electric power or energy, and the electric
4 utility's other costs of providing service to such remaining
5 electric power and energy requirement.

6 (220 ILCS 5/16-105 new)

7 Sec. 16-105. Delivery services implementation plan. To
8 ensure the safe and orderly implementation of delivery
9 services, each electric utility shall submit to the
10 Commission no later than March 1, 1999, a delivery services
11 implementation plan. The delivery services implementation
12 plan shall detail the process and procedures by which each
13 electric utility will offer delivery services to each
14 customer class and shall be designed to insure an orderly
15 transition and the maintenance of reliable service. The
16 Commission shall enter an order approving, or approving as
17 modified, the delivery services implementation plan of each
18 electric utility no later than 60 days prior to the date on
19 which the electric utility must commence offering such
20 services.

21 (220 ILCS 5/16-106 new)

22 Sec. 16-106. Billing experiments. During the mandatory
23 transition period, an electric utility may at its discretion
24 conduct one or more experiments for the provision or billing
25 of services on a consolidated or aggregated basis, for the
26 provision of real-time pricing, or other billing or pricing
27 experiments, and may include experimental programs offered to
28 groups of retail customers possessing common attributes as
29 defined by the electric utility, such as the members of an
30 organization that was established to serve a well-defined
31 industry group, companies having multiple sites, or
32 closely-located or affiliated buildings, provided that such

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1 groups exist for a purpose other than obtaining energy
2 services and have been in existence for at least 10 years.
3 The offering of such a program by an electric utility to
4 retail customers participating in the program, and the
5 participation by those customers in the program, shall not
6 create any right in any other retail customer or group of
7 customers to participate in the same or a similar program.
8 The Commission shall allow such experiments to go into effect
9 upon the filing by the electric utility of a statement
10 describing the program. Nothing contained in this Section
11 shall be deemed to prohibit the electric utility from
12 offering, or the Commission from approving, experimental
13 rates, tariffs and services in addition to those allowed
14 under this Section.

15 (220 ILCS 5/16-107 new)

16 Sec. 16-107. Real-time pricing.

17 (a) Each electric utility shall file, on or before May
18 1, 1998, a tariff or tariffs which allow nonresidential

19 retail customers in the electric utility's service area to
20 elect real-time pricing beginning October 1, 1998.

21 (b) Each electric utility shall file, on or before May
22 1, 2000, a tariff or tariffs which allow residential retail
23 customers in the electric utility's service area to elect
24 real-time pricing beginning October 1, 2000.

25 (c) The electric utility's tariff or tariffs filed
26 pursuant to this Section shall be subject to Article IX.

27 (220 ILCS 5/16-108 new)

28 Sec. 16-108. Recovery of costs associated with the
29 provision of delivery services.

30 (a) An electric utility shall file a delivery services
31 tariff with the Commission at least 210 days prior to the
32 date that it is required to begin offering such services

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1 pursuant to this Act. An electric utility shall provide the
2 components of delivery services that are subject to the
3 jurisdiction of the Federal Energy Regulatory Commission at
4 the same prices, terms and conditions set forth in its
5 applicable tariff as approved or allowed into effect by that
6 Commission. The Commission shall otherwise have the authority
7 to review, approve, and modify the prices, terms and
8 conditions of those components of delivery services not
9 subject to the jurisdiction of the Federal Energy Regulatory
10 Commission, including the authority to determine the extent
11 to which such delivery services should be offered on an
12 unbundled basis, pursuant to Article IX of this Act and
13 Section 16-109.

14 (b) The Commission shall enter an order approving, or
15 approving as modified, the delivery services tariff no later
16 than 30 days prior to the date on which the electric utility
17 must commence offering such services. The Commission may
18 subsequently modify such tariff pursuant to Article IX and
19 this Section.

20 (c) The electric utility's tariffs shall define the
21 classes of its customers for purposes of delivery services
22 charges. Charges for delivery services shall be cost based,
23 and shall allow the electric utility to recover the costs of
24 providing delivery services through its charges to its
25 delivery service customers that use the facilities and
26 services associated with such costs. Such costs shall include
27 the costs of owning, operating and maintaining transmission
28 and distribution facilities. The Commission shall also be
29 authorized to consider whether, and if so to what extent, the
30 following costs are appropriately included in the electric
31 utility's delivery services rates: (i) the costs of that
32 portion of generation facilities used for the production and
33 absorption of reactive power in order that retail customers
34 located in the electric utility's service area can receive

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1 electric power and energy from suppliers other than the
2 electric utility, and (ii) the costs associated with the use
3 and redispatch of generation facilities to mitigate
4 constraints on the transmission or distribution system in
5 order that retail customers located in the electric utility's
6 service area can receive electric power and energy from
7 suppliers other than the electric utility. Nothing in this
8 subsection shall be construed as directing the Commission to
9 allocate any of the costs described in (i) or (ii) that are
10 found to be appropriately included in the electric utility's

11 delivery services rates to any particular customer group or
12 geographic area in setting delivery services rates.

13 (d) The Commission shall establish charges, terms and
14 conditions for delivery services that are just and reasonable
15 and shall take into account customer impacts when
16 establishing such charges. In establishing charges, terms and
17 conditions for delivery services, the Commission shall take
18 into account voltage level differences. A retail customer
19 shall have the option to request to purchase electric service
20 at any delivery service voltage reasonably and technically
21 feasible from the electric facilities serving that customer's
22 premises provided that there are no significant adverse
23 impacts upon system reliability or system efficiency. A
24 retail customer shall also have the option to request to
25 purchase electric service at any point of delivery that is
26 reasonably and technically feasible provided that there are
27 no significant adverse impacts on system reliability or
28 efficiency. Such requests shall not be unreasonably denied.

29 (e) Electric utilities shall recover the costs of
30 installing, operating or maintaining facilities for the
31 particular benefit of one or more delivery services
32 customers, including without limitation any costs incurred in
33 complying with a customer's request to be served at a
34 different voltage level, directly from the retail customer or

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1 customers for whose benefit the costs were incurred, to the
2 extent such costs are not recovered through the charges
3 referred to in subsections (c) and (d) of this Section.

4 (f) An electric utility shall be entitled but not
5 required to implement transition charges in conjunction with
6 the offering of delivery services pursuant to Section 16-104.
7 Such charges shall be calculated as provided in Section
8 16-102, and shall be collected on each kilowatt-hour
9 delivered under a delivery services tariff to a retail
10 customer from the date the customer first takes delivery
11 services until December 31, 2008 except as provided in
12 subsection (h) of this Section.

13 (g) The electric utility shall file tariffs that
14 establish the transition charges to be paid by each class of
15 customers to the electric utility in conjunction with the
16 provision of delivery services. The electric utility's
17 tariffs shall define the classes of its customers for
18 purposes of calculating transition charges. The electric
19 utility's tariffs shall provide for the calculation of
20 transition charges on a customer-specific basis for any
21 retail customer whose average monthly maximum electrical
22 demand on the electric utility's system during the 6 months
23 with the customer's highest monthly maximum electrical
24 demands equals or exceeds 3.0 megawatts for electric
25 utilities having more than 1,000,000 customers, and for other
26 electric utilities for any customer that has an average
27 monthly maximum electrical demand on the electric utility's
28 system of one megawatt or more, and (A) for which there
29 exists data on the customer's usage during the 3 years
30 preceding the date that the customer became eligible to take
31 delivery services, or (B) for which there does not exist data
32 on the customer's usage during the 3 years preceding the date
33 that the customer became eligible to take delivery services,
34 if in the electric utility's reasonable judgment there exists

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1 comparable usage information or a sufficient basis to develop
2 such information, and further provided that the electric
3 utility can require customers for which an individual
4 calculation is made to sign contracts that set forth the
5 transition charges to be paid by the customer to the electric
6 utility pursuant to the tariff.

7 (h) An electric utility shall also be entitled to file
8 tariffs that allow it to collect transition charges from
9 retail customers in the electric utility's service area that
10 do not take delivery services but that take electric power or
11 energy from an alternative retail electric supplier or from
12 an electric utility other than the electric utility in whose
13 service area the customer is located. Such charges shall be
14 calculated, in accordance with the definition of transition
15 charges in Section 16-102, for the period of time that the
16 customer would be obligated to pay transition charges if it
17 were taking delivery services, except that no deduction for
18 delivery services revenues shall be made in such calculation,
19 and usage data from the customer's class shall be used where
20 historical usage data is not available for the individual
21 customer. The customer shall be obligated to pay such
22 charges on a lump sum basis on or before the date on which
23 the customer commences to take service from the alternative
24 retail electric supplier or other electric utility, provided,
25 that the electric utility in whose service area the customer
26 is located shall offer the customer the option of signing a
27 contract pursuant to which the customer pays such charges
28 ratably over the period in which the charges would otherwise
29 have applied.

30 (i) An electric utility shall be entitled to add to the
31 bills of delivery services customers charges pursuant to
32 Sections 9-221, 9-222 (except as provided in Section
33 9-222.1), and Section 16-114 of this Act, Section 5-5 of the
34 Electricity Infrastructure Maintenance Fee Law, Section 6-5

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1 of the Renewable Energy, Energy Efficiency, and Coal
2 Resources Development Law of 1997, and Section 13 of the
3 Energy Assistance Act of 1989.

4 (j) If a retail customer that obtains electric power and
5 energy from cogeneration or self-generation facilities
6 installed for its own use on or before January 1, 1997,
7 subsequently takes service from an alternative retail
8 electric supplier or an electric utility other than the
9 electric utility in whose service area the customer is
10 located for any portion of the customer's electric power and
11 energy requirements formerly obtained from those facilities
12 (including that amount purchased from the utility in lieu of
13 such generation and not as standby power purchases, under a
14 cogeneration displacement tariff in effect as of the
15 effective date of this amendatory Act of 1997), the
16 transition charges otherwise applicable pursuant to
17 subsections (f), (g), or (h) of this Section shall not be
18 applicable in any year to that portion of the customer's
19 electric power and energy requirements formerly obtained from
20 those facilities, provided, that for purposes of this
21 subsection (j), such portion shall not exceed the average
22 number of kilowatt-hours per year obtained from the
23 cogeneration or self-generation facilities during the 3 years
24 prior to the date on which the customer became eligible for
25 delivery services, except as provided in subsection (f) of

Section 16-110.

(220 ILCS 5/16-109 new)

Sec. 16-109. Unbundling of delivery services; Commission review. The General Assembly finds that the offering of delivery services will, and is intended to, facilitate the development of competition for generation services, and that competition may develop for other services currently offered on a tariffed basis by the electric utility. The Commission

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shall open a proceeding to investigate the need for and desirability of different or additional unbundling of delivery services for some or all electric utilities 3 years from the date that a tariff for delivery services is first approved or allowed into effect pursuant to this Section. The Commission shall open an additional proceeding to again investigate the need for and desirability of different or additional unbundling of delivery services for some or all electric utilities, 3 years after the entry of its final order in the first investigation proceeding. The Commission shall issue its final order in each investigation proceeding no later than 6 months after the proceeding is initiated. In each such proceeding the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois. Specific changes to the delivery services tariffs of individual electric utilities to implement findings and directives stated in an order in an investigation proceeding initiated under this Section shall be addressed through individual electric utility tariff filings.

(220 ILCS 5/16-110 new)

Sec. 16-110. Delivery services customer power purchase options.

(a) Each electric utility shall offer a tariffed service or services in accordance with the terms and conditions set forth in this Section pursuant to which its delivery services customers may purchase from the electric utility an amount of electric power and energy that is equal to or less than the amounts that are delivered by such electric utility.

(b) Except as provided in subsection (c) of Section 16-112, until December 31, 2008, a delivery services customer

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that is paying transition charges to the electric utility shall be permitted to purchase electric power and energy from the electric utility at a price or prices equal to the sum of (i) the market values that are determined for the electric utility in accordance with Section 16-112 and used by the electric utility to calculate the customer's transition charges and (ii) a fee that compensates the electric utility for any administrative costs it incurs in arranging to supply such electric power and energy; provided, that a residential retail customer taking delivery services shall not be entitled to make such purchases prior to January 1, 2004. The electric utility may require that the customer purchase such electric power and energy for periods of not less than one year and may also require that the customer give up to 30 days notice for a purchase of one year's duration, and 90 day's notice for a purchase of more than one year's duration. A delivery service customer exercising the option described